



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,566	12/05/2003	Tae-Ahn Jahng	001227/1363	8922
69095 7590 08/18/2008 STROOCK & STROOCK & LAVAN, LLP 180 MAIDEN LANE NEW YORK, NY 10038				
EXAMINER HOFFMAN, MARY C				
ART UNIT		PAPER NUMBER		
3733				
MAIL DATE		DELIVERY MODE		
08/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,566

Applicant(s)

JAHNG, TAE-AHN

Examiner

MARY HOFFMAN

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39, 41, 42, 58-60 and 63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39, 41, 42, 58-60 and 63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39, 41-42, 58-60, and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by La Mendola (U.S. Patent No. 6,520,495).

La Mendola discloses a connection system for use in a bone fixation device, comprising a first bone coupling assembly (FIG. 2a) adapted to be secured to a first vertebrae; a rod comprising: a rigid first end portion (ref. # 108, 114) including a surface received at least partially by and coupled to the first bone coupling assembly; a rigid second end portion (see opposite end); a longitudinal flexible member (ref. #112) located between the first end portion and the second end portion, non-slidably coupled to the first end portion, and non-slidably coupled to the second end portion; and a plurality of rigid spacers (ref. #111) located between the first and second end portions and circumferentially disposed about the longitudinal flexible member; a second bone coupling assembly coupled to the rod at a location other than the first end portion and adapted to be secured to a second vertebrae, the second vertebrae adjacent to the first vertebrae, wherein the first and second end portions directly limit motion of the plurality of rigid spacers along the longitudinal flexible member and the plurality of rigid spacers limit the minimum distance between the first vertebrae and the second vertebrae when the rod is coupled to the first vertebrae and the second, adjacent vertebrae via the first bone coupling assembly and the second bone coupling

assembly; wherein each of the plurality of rigid spacers include a male interlocking member and a female interlocking cavity configured to structurally interlock with a corresponding female interlocking cavity and male interlocking member of one of the plurality of rigid spacers, the first end portion and the second end portion, respectively. The longitudinal flexible member comprises at least one of a metal wire comprising a plurality of metal yarns and a braided metal wire structure comprising a plurality of interwoven metal wires. The second bone coupling assembly is connected to the second end portion. The plurality of rigid spacers and at least one of the first and second end portions have a substantially similar outer diameter. The first and second end portions each have an outer diameter that is greater than an inner diameter of the plurality of rigid spacers. The first and second end portions each have an outer circumference that is "substantially" similar to a circumference of the plurality of rigid spacers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39, 41-42, 58-60, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saurat et al. (U.S. Patent No. 6,296644) in view of Milo (U.S. Patent No. 3,858,578).

Saurat et al. disclose a connection system for use in a bone fixation device, comprising a first bone coupling assembly adapted to be secured to a first vertebrae; a rod comprising: a rigid first end portion including a surface received at least partially by and coupled to the first bone coupling assembly; a rigid second end portion; a flexible connection located between the first end portion and the second end portion, non-slidably coupled to the first end portion, and non-slidably coupled to the second end portion;

Saurat et al. disclose the claimed invention except for the flexible connection comprising a plurality of interlocking spacers circumferentially located around a flexible member (a braided wire or cable).

Milo discloses a flexible connection comprising a plurality of interlocking spacers circumferentially located around a flexible member-a braided wire or cable to provide an adjustable connection that is then capable of being rigid once in place.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the device of Saurat et al. by substituting the flexible connection with the plurality of interlocking spacers circumferentially located around a flexible member in view of to Milo to provide an adjustable connection that is capable of being made rigid once in place to provide the predictable result of providing a connection. See also U.S. Patent 5,513,827 to Michelson.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY HOFFMAN whose telephone number is (571)272-5566. The examiner can normally be reached on Monday-Thursday 10:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary C. Hoffman/
Examiner, Art Unit 3733

/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733